

REMARKS

Claims 2-6 were rejected under §112, second paragraph. Claim 2 has been amended to positively recite the perforated section and reconsideration and withdrawal of the rejection are respectfully requested.

Claims 1-2 and 4-15 were rejected as unpatentable over RIETH EP 0 108 222 A2 and claim 3 was rejected further in view of BOGERT 3,263,388. Reconsideration and withdrawal of the rejections are respectfully requested.

Claim 1 includes, among other features, a locking lug that is adapted to be bent into one of the perforations of the perforated section and cooperate with an edge of this perforation to immobilize the perforated section against movement in translation. Claim 11 includes a similar locking lug.

The Official Action points to element 18 in RIETH as corresponding to the claimed locking lug. However, as explained in the previous response the element 18 is not adapted to be bent into one of the perforations of the perforated section and does not cooperate with an edge of this perforation to immobilize the perforated section against movement in translation. The Official Action indicates that it would have been obvious to one of skill in the art to make the element 18 so that it is adapted to be bent into one of the perforations of the perforated section and to cooperate with an edge of this perforation to immobilize the perforated section against movement in translation. The Official

Action indicates that the motivation to make this adaptation is to provide maximum connecting interaction with the support to increase stiffness.

However, this motivation is not based on anything in the reference and is based solely on the teaching of the present inventor. One of skill in the art reading RIETH would use elements 18 as taught therein and would be under the impression that the elements 18 arranged as they are in Figure 2 of RIETH would provide suitable connecting interaction with the support to increase stiffness. There is nothing in the reference or otherwise made of record to indicate that rearranging these elements 18 so that they are adapted to be bent into one of the perforations of the perforated section and to cooperate with an edge of this perforation to immobilize the perforated section against movement in translation would further increase stiffness over that which is offered by the device in RIETH.

Further, it is not clear why one of skill in the art would see that the adaptation suggested in the Official Action would provide "maximum connecting interaction" as there is nothing in the references or of record to indicate the device in RIETH offers less than "maximum" interaction or that such interaction would be maximized by adopting the present invention.

By way of further explanation, RIETH discloses that the elements 18 are bent in a manner so that they could never be in one of the perforations of the perforated section. As shown in

Figure 2, the elements 18 are aligned 90° to the alignment of the slots 26. The artisan would have to decide that the RIETH device provides inadequate stiffness and, based on this, decide to solve this "problem" by turning the elements 18 90° and then putting one of the elements 18 in one of the slots 26 to increase the stiffness, all of this despite there being no suggestion, motivation, reason or teaching to do so in the reference or of record. This is not a proper analysis for a rejection under §103.

The rejection is based on impermissible hindsight and should be withdrawn.

Claim 2 further avoids the rejection because RIETH does not disclose that the support has two parallel walls that are integrally joined to each other where a distance between these parallel walls corresponds to the distance between the branches of the U-section of the perforated section. By contrast, RIETH discloses two separate walls that must be separately attached to the surface. This point is important because the assembly of the two separate walls in RIETH is difficult. A first wall must be fixed to the surface and then the second wall must be affixed at a precise distance. The invention of claim 2 avoids this problem by integrally joining the two walls. Since RIETH discloses two walls, there is nothing in the reference or of record to motivate one of skill in the art to modify RIETH in the manner claimed in claim 2.

The Official Action acknowledges that RIETH does not disclose the substantially rectangular-section tube of claim 4, but suggests that this modification would be obvious to one of skill in the art in order to provide maximum connecting interaction with the supports to increase stiffness. As explained above, there is nothing in the reference or of record that provides this motivation. Nor is there anything in the reference or of record that indicates why the artisan would believe that the stiffness offered by RIETH is somehow inadequate and in need of the particular improvement claimed in claim 4. Indeed, why would the artisan select as an improvement the substantially rectangular-section tube claimed herein? The rejection is based on hindsight and should be withdrawn.

With regard to claim 8, RIETH does not disclose that the elements 18 are aligned with the claws 16. In contrast, Figure 2 of RIETH shows that the claws 16 are aligned with each other, but that the elements 18 are not aligned with the claws 16 at all.

Claim 14 further avoids the rejection because there is nothing in the reference or of record to motivate the artisan to adapt the locking lug to be bent along a fold line that is generally parallel to a longitudinal axis of the support. RIETH shows the opposite and one of skill in the art has no reason to change what is disclosed in RIETH, absent the hindsight application of that taught only by the present inventor.

Claim 15 also avoids the rejection because the reference does not suggest the generally rectangular tube, where two of the walls are separated from each other by a gap that is adapted to receive the perforated section. It is not clear why one of skill in the art would perceive this gap as increasing stiffness, as offered in the Official Action by way of motivation to make this adaptation to RIETH.

In view of the present amendment and the foregoing remarks, it is believed that the present application has been placed in condition for allowance. Reconsideration and allowance are respectfully requested.

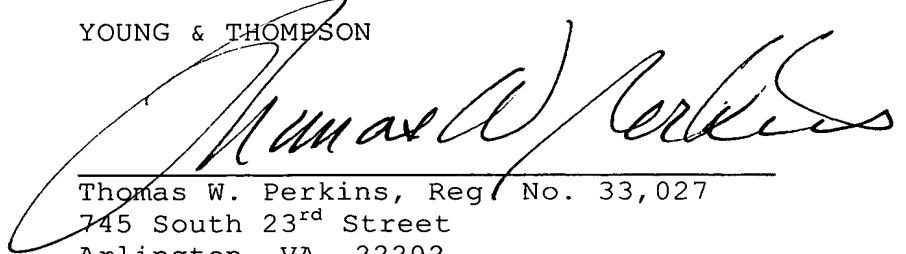
While it is believed that the application is now in condition for allowance, please note that the undersigned has been authorized to conduct an interview in order avoid a further Official Action. Accordingly, if the application is not yet in condition for allowance the undersigned respectfully requests that the Examiner call the undersigned so that an interview can be arranged to resolve whatever differences may remain.

The Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any

overpayment to Deposit Account No. 25-0120 for any additional  
fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17.

Respectfully submitted,

YOUNG & THOMPSON

A large, stylized handwritten signature in black ink, appearing to read "Thomas W. Perkins". The signature is written over a horizontal line that separates it from the printed contact information below.

Thomas W. Perkins, Reg. No. 33,027  
745 South 23<sup>rd</sup> Street  
Arlington, VA 22202  
Telephone (703) 521-2297  
Telefax (703) 685-0573  
(703) 979-4709

TWP/lk